Supreme Court, U.S.
FILED
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No.

In The

Supreme Court of the United States

October Term, 1997

JAMES A. HINCHLIFFE OR UNKNOWN OCCUPANTS OF 107-D NATIONAL AVENUE, LOWER CHICHESTER, PENNSYLVANIA *Petitioners,*

v.

RESIDENTIAL PORTFOLIO INVESTMENT GROUP II *Respondents.*

Petition for a Writ of Certiorari to the

SUPREME COURT OF PENNSYLVANIA

PETITION FOR A WRIT OF CERTIORARI

James A. Hinchliffe
Or Unknown Occupants
107-D National Avenue
Lower Chichester, Pennsylvania 19061
Phone (610) 497-9755

29 pp

QUESTION(S) PRESENTED

1. Can the Courts below depart from the accepted and usual course of judicial proceedings, or sanction such a departure?

2. Can the Courts below loose jurisdiction over a matter as to call for an exercise of the United States Supreme Court's supervisory power?

3. Have the Courts below erred in law and erred in Pa. R.C.P.?

4. Have the Respondents failed to follow law and also failed to follow Pa. R.C.P.?

LIST OF PARTIES

In accordance with United States Supreme Court Rule 14.1(b), the names of all parties appear in the caption of the case on the cover page.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1997

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The date on which the highest state court decided this case was March 20, 1998. The reformated decision appears at (Appendix E) to the petition.

JURISDICTION

The jurisdiction of this Court to review the judgment of the Court of Appeals is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional right to use of the Appellate Court process.

Pa. R.C.P. have not been followed by Respondents and violations of same are evidenced.

STATEMENT OF THE CASE

Petitioners, filed a timely notice of appeal at the Trial Court below and petitioners, have perfected this appeal thru the Appellate Courts below, pursuant to Pa. R.A.P. thus far.

The Courts below have not issued any opinion of any kind in this matter.

Petitioners, respectfully hesitate to make any judgment against the Courts below as to the Court's failures and/or errors of law in this Appellate process.

Petitioner's, first knowledge of any motion, was by Petitioner's, receipt of a notice under Pa. rule of civil procedure No. 236, that an order has been entered.

Said notice of order signed on September 18, 1996, was received by Petitioners, by regular mail, on September 28, 1996.

No opportunity had been afforded Petitioners, to respond to, or answer said motion, and whereas an order had already been signed on September 18 1996.

Order dated September 18, 1996, was signed within only eight days of filing of Respondent's, motion of which may have not allowed enough time for a timely response or answer pursuant to Pa. R.C.P., however Petitioners, had not received any notice of said motion prior to said 236 Notice of Order signed on September 18, 1996.

Petitioners, believes that Respondent, failed

to serve or notice any copy of said motion to Petitioners, in the first instance, however the Delaware County, Pennsylvania, Office Of Judicial Support, by mailing to Petitioners, a 236 Notice of an Order, had alarmed the Petitioners, of the instant motion.

REASONS FOR GRANTING THE PETITION

The Courts below did not afford the Petitioners, ample opportunity to respond to the motion in accordance with Pa. R.C.P..

Petitioner's, concise statement of matters complained of on appeal, with its exhibits, clearly shows that Pa. R.C.P. have not been kept nor followed.

The Courts below have erred in this Appellate process and has now harmed the petitioners, in this matter.

The Courts below have caused error and conflict in the Appellate process, as to call for an exercise of the power of an immediate supervision of and by the Supreme Court of the United States.

By use of the United States Supreme Court's supervisory power, important questions will be answered that the Courts below failed to or were unable to answer.

If possible for the Courts below to loose jurisdiction over a matter, perhaps and in fact the Supreme Court of the United States has or gains a full jurisdiction over such matter.

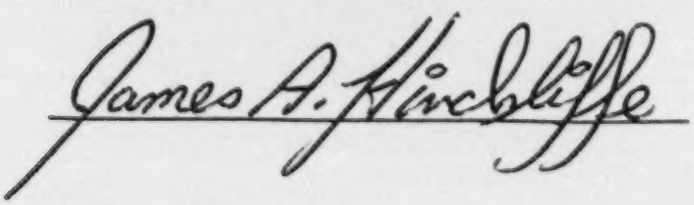
The Court's below, loss of control in this matter has become an adversity to the petitioners and if a precedent is made, this matter becomes of a national importance.

CONCLUSION

Petitioner's, right of recoupment and set-off must be and will be adjudicated by the Court in Petitioner's adversary action against the Respondents and as this ongoing matter has now compounded the Petitioner's adversary action against the Respondents. The petition for a writ of certiorari should be granted.

Respectfully submitted,

James A. Hinchliffe
Or Unknown Occupants
107-D National Avenue
Lower Chichester, Pennsylvania 19061
Phone (610) 497-9755



APPENDIX

APPENDIX A

Residential Portfolio Investment
Group II

V.

James A. Hinchliffe, etc.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

(C.P. Delaware County
No. 96-7780)

No. 4313 Philadelphia, 1996
Filed: April 24, 1997

O R D E R

This appeal has been taken from the order of September 18, 1996.

Pa.R.A.P. 341(b)(1) states in pertinent part that "[a] final order is any order that disposes of all claims or of all parties." See Robert H. McKinney, Jr., Assocs. v. Albright, 429 Pa. Super. 435, 634 A.2d 937 (1993); Bell v. State Farm, 430 Pa. Super. 435, 634 A. 2d 1137 (1993); Luiziaga v. Psolka, 432 Pa. Super. 26, 637 A.2d 645 (1993); Continental Bank v. Andrew Bldg. Co., 436 Pa. Super. 559, 648 A.2d 551 (1994); Bonner v. Fayne, 441 Pa. Super. 432, 657 A.2d 1001 (1995); Kirby Electric, Inc. v. Jet Contracting Corp., 447 Pa.

Super. 1, 665 A.2d 1293 (1995); Hahalyak v. Integra Financial Corp., 451 Pa. Super. 171, 678 A.2d 819 (1996); Liberty State Bank v. Northeastern Bank, _____ Pa. Super. _____, 683 A.2d 889 (1996).

Therefore, the appellant is directed to show cause as to the basis of this court's jurisdiction over this matter. This statement is due within ten days of the date of this order. Failure to respond to this court's directive may result in the dismissal of this appeal without further notice.

Per Curiam

APPENDIX B

Residential Portfolio Investment
Group II

V.

James A. Hinchliffe, etc.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

(C.P. Delaware County
No. 96-7780)

No. 4313 Philadelphia, 1996
Filed: May 9, 1997

O R D E R

This appeal has been taken from the order of September 18, 1996 directing that service of the complaint and all other pleadings shall be complete when mailed to a certain address.

Pa.R.A.P. 341(b)(1) states in pertinent part that '[a] final order is any order that disposes of all claims or of all parties.' See Robert H. McKinney, Jr., Assocs. v. Albright, 429 Pa. Super. 440, 632 A.2d 937 (1993); Bell v. State Farm, 430 Pa. Super. 435, 634 A.2d 1137 (1993); Luiziaga v. Psolka, 432 Pa. Super. 26, 637 A.2d 645 (1993); Continental Bank v. Andrew Bldg. Co., 436 Pa Super. 559, 648 A.2d 551 (1994); Bonner v. Fayne, 441 Pa.

Super. 432, 657 A.2d 1001 (1995); Kirby Electric, Inc. v. Jet Contracting Corp., 447 Pa. Super. 1, 665 A.2d 1293 (1995); Hahalyak v. Integra Financial Corp., 451 Pa. Super. 171, 678 A.2d 819 (1996); Liberty State Bank v. Northeastern Bank, _____ Pa. Super. _____, 683 A.2d 889 (1996).

Since the September 18th order disposes of neither all claims nor all parties, the court hereby QUASHES the appeal at No. 4313 Philadelphia, 1996.

Per Curiam

APPENDIX C

Residential Portfolio Investment
Group II

V.

James A. Hinchliffe, etc.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

(C.P. Delaware County
No. 96-7780)

No. 4313 Philadelphia, 1996
Filed: June 25, 1997

O R D E R

The appellant's motion for reconsideration of this court's order of May 9, 1997 quashing this appeal is DENIED.

Per Curiam

APPENDIX D

RESIDENTIAL PORTFOLIO
INVESTMENT GROUP II
Plaintiff,

v.

JAMES A. HINCHLIFFE OR UNKNOWN
OCCUPANTS OF 107-D NATIONAL
AVENUE, LOWER CHICHESTER,
PENNSYLVANIA
Defendant.

O R D E R

AND NOW, this 18th day of September, 1996, upon consideration of Plaintiff's Motion and the Affidavit of Good Faith Investigation attached hereto, it is hereby ORDERED that service of the Civil Action Ejectment Complaint and all other pleadings on Defendant James A. Hinchliffe and Unknown Occupants of 107-D National Avenue, Lower Chichester, Pennsylvania shall be complete when Plaintiff has mailed the pleading to be served by certified mail and regular mail to:

107-D National Avenue, Lower Chichester, Pennsylvania and the legal process server (or Sheriff) has posted a copy of the pleading to be served on the most public part of the property located at 107-D National Avenue, Lower Chichester, Pennsylvania, Delaware County, which is the subject property upon which this mortgage foreclosure action is predicated.

BY THE COURT:

/S/ Joseph F. Battle
J.

APPENDIX E

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

RESIDENTIAL PORTFOLIO INVESTMENT GROUP II,

Respondent,

V.

JAMES A. HINCHLIFFE OR UNKNOWN OCCUPANTS OF 107-D NATIONAL AVENUE, LOWER CHICHESTER, PENNSYLVANIA,

Petitioner.

O R D E R

PER CURIAM:

AND NOW, this 20th day of March, 1998, the Petition for Allowance of Appeal is hereby DENIED.

TRUE & CORRECT COPY
ATTEST:
MAR 23 1998
/S/
SHIRLEY BAILEY
CHIEF CLERK